



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document(s) Reviewed (include title):

- **WAC 458-61-015 (General information)**
- **WAC 458-61-030 (Definitions)**
- **WAC 458-61-050 (Payment of tax—County treasurer as agent for the state)**
- **WAC 458-61-060 (Disposition of proceeds)**
- **WAC 458-61-070 (Affidavit batch transmittal)**
- **WAC 458-61-080 (affidavit requirements)**
- **WAC 458-61-100 (Refunds of tax paid)**
- **WAC 458-61-120 (Evasion penalty)**
- **WAC 458-61-130 (Department audit responsibility)**
- **WAC 458-61-150 (Supplemental statements)**

Date last reviewed: **September 1999**

Reviewer: **Ed Ratcliffe**

Date current review completed: **June 17, 2002**

Briefly explain the subject matter of the document(s):

These rules explain the general administration of the real estate excise tax (REET) program (chapters 82.45 and 82.46 RCW). They provide pertinent definitions and explain documentation requirements, the Department of Revenue's auditing responsibilities, and the responsibilities of county treasurers to act as an agent of the state. Specific points of taxability are addressed in other rules found in chapter 458-61 WAC.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.



2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is "yes" to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

WAC 458-61-030 (definitions) should be revised to incorporate chapter 282, Laws of 2001, section 2, which applied the real estate excise tax to "used park model trailers" starting August 1, 2001.

WAC 458-61-050 (payment of tax) should be revised to delete reference to "classified forest land" as this property tax class was repealed by chapter 249, Laws of 2001, section 16.

WAC 458-61-080 should be revised to reference the affidavit requirements for "used park model trailers" as provided by chapter 282, Laws of 2001, section 2.

As noted in the previous review, the information now provided in ETA 570.61.080 (Dual signatures—Utility rights of way or easements—Counties) should be incorporated into WAC 458-61-080. This document provides important information regarding the signatory requirements for the purchase of utility right-of-ways or easements, and was adopted in response to chapter 137, Laws of 1994.



3. Additional information: Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

WAC 458-61-015 currently states that the penalties and limitations imposed by RCW 82.32.090 do not apply to REET program. This should be changed to read that RCW 82.32.090(1) and (8) do not apply.

WAC 458-61-030(10) & 080(8)(b) presently provide valuation criteria for determining the "selling price" of real property and assigning a selling price when an affidavit presents only a nominal value for real property. Det. 99-132, 19 WTD 255 (2000) rejected use of the contract selling price based upon an "arms length transaction" analysis. The revision of the rule should review and clarify valuation principles for the real estate excise tax.

When revising these rules, the drafter should consider revising the rules to provide the information in a way more consistent with rules currently being adopted by the Department.

The citation in WAC 458-61-100(4) should be changed from WAC 458-61-100 to WAC 458-20-100.

4. Listing of documents reviewed: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use "bullets" with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

- **Chapter 82.45 (Excise tax on real estate sales)**
- **Chapter 82.46 (Counties and cities—Excise tax on real estate sales)**

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Appeals Division Decisions (WTDs):

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):



5. Review Recommendation:

- ☒ **Amend**
- ☐ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- ☒ **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- ☐ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

This review only covers the period from the previous rule review period to date and includes all recommendations made in the prior rule review.

The following rules should be revised for substantive changes:

- WAC 458-61-015, to update the citation to RCW 82.32.090;
- WAC 458-61-030, to incorporate chapter 282, Laws of 2001, sec. 2, and clarify the valuation process for determining the "selling price" of real property;
- WAC 458-61-050 to incorporate repeal of "classified forest land" class by chapter 249, Laws of 2001, section 16;
- WAC 458-61-080, to incorporate chapter 137, Laws of 1994, chapter 282, laws of 2001, sec. 2, harmonize valuation process for affidavits presenting only a nominal value of land with WAC 458-61-030, and ETA 570.61.080;
- WAC 458-61-100 to correct the erroneous citation to WAC 458-61-100; and
- WAC 458-61-150 to update the citation to RCW 458-61-090.

These rules may be retained as is:

- WAC 458-61-060;
- WAC 458-61-070;
- WAC 458-61-120; and
- WAC 458-61-130.



The entire list of rules should be reviewed for opportunities to consolidate and conform the presentation of the information contained in the rules into a series of rules more consistent with current rule-making practice.

6. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

_____ 1
_____ 2
_____ 3
_____ 4